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# Loyola Digest

Loyola Law School Los Angeles

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# LOYOLA DIGEST

Vol. 3 — No. 2

LOYOLA UNIVERSITY SCHOOL OF LAW

April, 1962

## In This Issue:

**CALIFORNIA CRIME CONFERENCE** — Attorney General Kennedy calls for greater cooperation between Federal and local law enforcement agencies.

**TROPIC OF CANCER REVISITED** — The Pros and Cons of obscenity and censorship in literature are discussed by student writers.

**LOYALTY OATH** — Attorney A. L. Wirin warns of civil liberties in clear and present danger.

**WHAT YOU DO NOT LEARN IN LAW SCHOOL** — Presiding Judge of the Superior Court, McIntyre Faries, recommends methods to supplement classroom theory.

**BENNY "KID" PARET** — Requiem to a welterweight.

## Law Day Panel At Del Rey

On Tuesday night, May 1st, on the del Rey Campus, the Law School will present a panel discussion: "John Doe, Citizen, Personal Liberty and the Law."

Marking the Law School's first celebration of Law Day USA, the panel composed of Justice John J. Ford, District Court of Appeal; Judge J. Howard Ziemann, Los Angeles County Superior Court; Judge Otto M. Kaus, Los Angeles County Superior Court, will carry out the theme of Law Day 1962, "The Law; Wellspring of Liberty," by discussing for the benefit of students, faculty, alumni and friends of Loyola University, individual liberties under the American legal system. Included will be recent decisions of the Supreme Court of the United States and decisions of the California Supreme Court. Acting Dean J. Rex Dibble will be the moderator.

Acting Associate Professor of Law A. Marburg Yerkes, Law Day chairman, announced that the panel will commence at 7:30 p.m., in St. Robert's Auditorium, to be followed by a reception in the President's Lounge of Malone Hall.

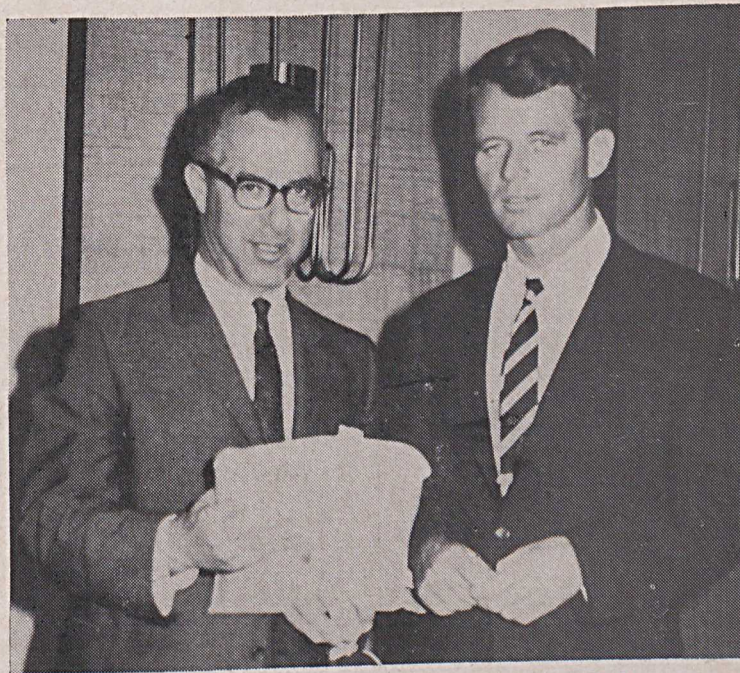
This program marks Loyola's response to the recent Proclamation of Law Day by President John F. Kennedy. Its objective is to join with the American Bar Association in fostering respect for the law, enabling the nation to grow in moral strength and world leadership, and to provide an occasion for the American people to re-dedicate themselves to freedom under just laws administered by independent courts, emphasizing the rule of law rather than of force.

## CALIFORNIA CRIME CONFERENCE

### Kennedy Prescribes 'Corruption Cure'

By Tony Murray

"Let us play the game of life according to the rules," was the profound proposal of Governor Edmund G. Brown, speaking to a distinguished conference of legal crusaders from every corner of the state of California. The occasion was a momentous state-wide Crime Prevention Conference at the Statler-Hilton Hotel in Los Angeles, called by Attorney-General Stanley Mosk and sponsored by Los Angeles' Town Hall Society. It was the good fortune of Editor Humberto Garcia and this writer to be invited by Mr. William Miller, Executive Vice-President of Town Hall, to attend the conference on behalf of the Loyola Digest. Motivated by the necessity for leaders in all fields of law to become aware of, and involved in the crucial issues under discussion, and recognizing that the Digest extends to every American law school, Mr. Miller selected the Digest as one valuable means of disseminating the vital messages of the conference.



Attorneys General Mosk and Kennedy at the California Crime Conference.

Governor Brown's proposition that we live "according to the rules" was directed to the very heart of what we, as students of the law, should recognize as being our foremost goal. The rules to which the Governor adverts are our laws, and it was with the rule of law and its progression that the Crime Conference concerned itself. The conference was attended by over 1,200 persons, composed of lawyers, judges, chiefs of police, public officials, and civic leaders from at least forty California counties.

The highlight of the occasion was the presence of United States Attorney General, Robert F. Kennedy. Mr. Kennedy answered questions at a small press conference and then addressed the entire delegation. His speech reflected the far-reaching and progressive attitude of the administration toward the omnipresent problem of law enforcement, and demonstrated the sensitivity of the Justice Department to local struggles against crime.

The issues discussed revolved around the necessity that the United States stand as a bastion and symbol of freedom under law, to be looked upon, admired, and emulated by the other nations of the world. The long-term objectives, of the legal profession then should be "the establishment of an international system of law and order, operating toward the ultimate end of peace and justice. But in order for such a system to flourish in other countries, it must first be maintained and nourished by progressive leaders in our own country."

Complacency and apathy are the corrosive elements of a legal order, and the campaign against them must be unceasingly conducted.

"Organized crime," said Mr. Kennedy, "has become big business. It knows no state lines. It

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## From The Editor's Desk

ATTENTION has been called to the futility of expecting the law to keep abreast of social progress. It is insisted that by its very nature the law must be 50 years behind the times. The Digest's previous invitation to legislator, lawyer and law student to contribute toward major break-throughs in the law has been characterized as "a comic joust with windmills." The challenging query has been, "Do you really think you can stir the ocean with your little finger?"

Perhaps. Let us see—

This issue of the Digest has been visited by two distinguished guest writers. McIntyre Faries, Presiding Judge of the Los Angeles Superior Court, has enthusiastically responded to our invitation. His article on **THINGS YOU DO NOT LEARN IN LAW SCHOOL** is sure capital. Since the last issue of the Digest, Attorney A. L. Wirin, counsel for the American Civil Liberties Union, has had to make appearances before the United States Supreme Court and the California District Court of Appeals. He has literally made time to respond to County Counsel Harold W. Kennedy's article on **LOYALTY—A CONDITION OF PUBLIC EMPLOYMENT** (March issue of the Digest) because, in his own words,

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# CENSORSHIP

## Pros & Cons

### TROPICS GO HOME!

By Frank G. King

**A**N UNBROKEN and undaunted line of judges, none of which emerged from a monastic life to take the bench, have held that obscene literature can be prohibited from sale. Legislation in this area does not *per se* violate the freedoms of speech and press, protected from federal infringement under the First Amendment and from state infringement under the Fourteenth Amendment, Due Process Clause. Convictions have been rendered for the past 120 years, during periods of extreme changes in our nation's moral standards, yet, in a similar unbroken line are many anxious defendants who are eager to distribute their wares at prices and in quantities exceeding those for such books as "Little Women" and "Treasure Island"—the market being spurred on by advertising of their alleged "works of literary merit" as "Daring, Raw, Sexsational." They claim that their books cannot be prohibited from sale because of these same Constitutional guarantees.

Except for the occasional statute which tries to "stop the presses", or which is worded too broadly to enforce, or except for the occasional "Carrie Nation" of some law enforcement agency who undertakes his mission, before a court pronounced the matter obscene, each court from trial to final appeal has decided that the obscene work before it, could and should, be prohibited from sale.

Many persons advocating the cause of the seller of books will agree that obscene matter should be restrained but, they ask, "How do we know what obscenity is, and are we not advocating a censorship here, which might be carried over to more wholesome areas?" Censorship is invalid if it is a prior restraint on speech and press. Such suppression is unconstitutional under the First Amendment. The first obscenity law was passed by Congress, enforced, challenged, and held valid in 1842.

It must be made clear here that most statutes do not involve the suppression of a book before published, but rather an exclusion of an already published book awaiting sale to the general public. The United States Supreme Court in an opinion written by Justice Frankfurter in *Roth v. United States*, 354 U.S. 476, stated that "... after a book is published, its lot in the world is like that of anything else, it must conform to the law, and if it does not, it must be subject to penalty."

In the *Roth* case it was also stated that, "... All ideas having even the slightest social importance have the full protection of the Constitutional guarantees of free speech and press ... even though they are controversial or even hateful to the prevailing climate of opinion." However the Court held that obscenity was not within this protected class. Why? What is obscenity? The First Amendment was not intended to protect every utterance and implicit in the history of the amendment is the fact that obscenity is utterly without redeeming social importance.

The test which the Supreme Court has outlined for both federal and state use to detect obscenity is that the jury must determine whether the average person applying contemporary community standards finds, that, the dominant theme of the material in question, taken as a whole, appeals to prurient interest.

The Court indicated that this test is a fair one and clearly marks the boundaries of obscenity so that a law calling for the prohibition of obscenity will not fail for vagueness, as judges and juries can fairly administer the law except for marginal cases. At this point the opposition is saying "Ah Hah. Most cases are marginal cases!" To this argument the Court has held that it is quite easy for a jury to determine when the average person thinks something is "dirt for dirt's sake." Bah! Humbug! say these modern Greek Philosophers and students of the arts who, instead of infesting our nation's institutions of higher learning are content to reap their fortune in local cigar stores, selling these books. They say that because twelve laymen jurors or a judge cannot see art or literary merit, that is no reason that a work is devoid of such art or literary merit. To that the Ninth Circuit Court in San Francisco in the case of *Besig v. United States*, 208 F. 2d 142 (1953) held

"... It is no legitimate argument that because there are social groups composed of moral delinquents in this or in

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### THE TROPICS — HOT TO COLD

By Warren Wolfe

**F**EBRUARY 22—Sure you say, that is George Washington's birthday, and don't forget that a new nation was born—conceived and dedicated to freedom.

February 23, 1962. Twelve persons did forget. One Bradley Smith was without freedom's penumbra. (*People v. Smith*, L. A. Municipal Court No. 151588.)

It was freedom of expression.

But you said the First Amendment guarantees . . .

Well, not today.

Did you say what it was?

Just a book, the name doesn't matter.

Like a needle upon a cracked record. Henry Miller's *Tropic of Cancer* is merely representative. A book was banned at the Concord Library when Louisa May Alcott said, "if (he) cannot think of something better to tell our pure-minded lads and lassies, he had best stop writing for them." The book: *Huckleberry Finn*.

### Where Is The Censorship?

Today most states have some form of muzzling statute; e.g., Dreiser's *An American Tragedy* was Massachusetts banned in 1930. (*Commonwealth v. Friede*, 271 Mass. 318.)

A prominent non-legal force is the National Organization for Decent Literature (NODL). The NODL was organized in 1938 to control the publication and sale of lewd magazine and brochure literature. Because of its organization in many Roman Catholic diocese the NODL has effected considerable suppression through the device of moral suasion. The NODL's decency code has black-listed such works as: Joyce's *Ulysses*; Michener's *Tales of the South Pacific*; and Hemingway's *A Farewell to Arms*.

### The Rule of Nine

Obscenity is not protected speech.

Why?

Seven of us said so.

But where is the clear and present danger of anti-social conduct?

It's unnecessary.

Why?

Well, we just said so.

And so once again the Supreme Court bandies. The effect: Twelve laymen determine what we read and write. But our enlightened juries can always ascertain when a book "predominantly appeals to the prurient interests."

### Does Obscenity Have A Nature?

Lascivious, indecent, licentious, and vulgar. Yes, a plethora of synonyms scarcely aids vertical analysis.

They say nudity is obscene. Are bare feet? Of course not, you say. Well then denude the legs, then the arms and don't forget the face. Now we are at the beach. You say the water is fine.

May I remove my shirt?

It depends on one's sex.

Male I am—so what if the year is 1890?

Improper!

What about 1960?—now it's okay.

I understand the Supreme Court's hearing a civil rights case today—why don't we sit-in?

What's wrong with my attire?

Indecent!

In the Mid-East certain Mohammedan women, who readily expose their naked bodies, persistently refuse to unveil their faces. And not too long ago Chinese women, who were not shocked by genital exposure, would be unbearably offended if required to expose their naked feet.

Now I ask you: Where between the waist and the face does nudity offend modesty? Judge Hand has sagely measured obscenity as: "The present critical point in the compromise between candor and shame at which the community may have arrived. . . ." (*U. S. v. Kennerley*, 1913, 209 Fed. at 121.) We are compelled to conclude that the perceiving mind bestows

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# WOMEN IN LAW

By Carolyn M. Frlan

## Justice Mildred L. Lillie

Less than 50 years ago, women were denied the right to vote and the right to engage in many businesses and professions. Although there is still the occasional **woman's-place-is-in-the-home** attitude, the more modern thinkers have realized that women are as capable of contributing to the betterment of society as the men. No better example of a woman's contribution to the legal profession in California is found than in Mildred L. Lillie, Justice of the District Court of Appeal.

### Judicial Position

Justice Lillie holds the highest judicial position for a woman in the State, distinguishing herself as an outstanding jurist. One of the recent highlights of her judicial career was in 1960 when she was appointed by the Judicial Council of California as an Associate Justice Pro Tem of the California Supreme Court, and last year, she was made a member of this council.

When Justice Lillie started college at the University of California, she went with the intent of majoring in art, but decided to change to political science, and later entered Boalt Hall to study law.

### Career

In 1938, she was admitted to the California Bar and went to work at the City Attorney's office in Alameda. Following this experience, she joined a private firm in Fresno until her appointment as Assistant U.S. Attorney for Southern California in 1942. Justice Lillie claims that her experience in that office has been invaluable to her on the bench. In 1947, while working for Charles H. Carr, a Los Angeles attorney, she was appointed Judge of the Municipal Court of the City of Los Angeles by Gov. Earl Warren.

Also in 1947, Justice Lillie was married to the late Cameron Lillie, a Los Angeles attorney, who urged her to accept the judicial position.

Her next appointment to the bench came in 1949 when Gov. Warren appointed her to the Superior Court of Los Angeles County. There she served in all departments until 1958 when Gov. Knight elevated her to her present position on the District Court of Appeal.

### Hobbies

Besides all of her legal, charitable and social affiliations (of which there are more than 20), Justice Lillie still finds time to pursue her hobby of painting and sometimes exhibits her work at the Bar convention. Cooking, she claims, is also a favorite pastime.

In speaking with Justice Lillie, one realizes that not only has she been a credit to the legal profession as a jurist, but she has combined this with an abundance of feminine charm and beauty.



Justice Mildred Lillie

## PRESIDENT'S MESSAGE

By James Schmiesing

President, Loyola Bar Association

Though the year is not yet ended and more issues of the Digest will appear, I would like to devote this column to the Digest and the work Humberto Garcia and Bob Ridley have done.

Prior to the March issue of this year, no issue had appeared for one year. The reasons were numerous, but perhaps the crowning blow was the recall to active duty of Mike Conlon, the former editor, early this year. At this point all work ground to a halt and remained in a more or less static condition until Garcia accepted the editorship. Since his appointment the progress has been monumental.

He immediately enlisted the aid of Bob Ridley, a man who had already demonstrated his proficiency on the moot court team. Together, they put an end to the stagnation. They updated what material was at hand; Garcia contacted prominent attorneys to write feature articles, and within a month — the largest and undoubtedly the finest — Digest was distributed.

The students and alumni of Loyola owe Garcia and Ridley sincere congratulations for the work they have done on such short notice and with so much capability.

In Oklahoma it is illegal to catch a whale in any of the inland waters of the state.

# Letters to the Editor

Many thanks for sending me a copy of the Loyola Digest. I have read it with interest. **JUSTICE POTTER STEWART, Supreme Court of the United States.**

\* \* \*

I was very much interested in reading the Digest. It contained several splendid articles. **MARSHALL F. McCOMB, Associate Justice, Supreme Court of California.**

\* \* \*

I read with great interest the current issue of the **Loyola Digest**. The articles are timely and forceful. I like your idea of having both sides of provocative questions presented . . . it would be most convenient for the reader to have in one issue articles such as the forthcoming one by Mr. Wirin along with the one like County Counsel Kennedy's presenting the other side. **ROGER J. TRAYNOR, Associate Justice, Supreme Court of California.**

\* \* \*

. . . I thought it was very well done and enjoyed reading it . . . I think the Digest will serve the purpose of arousing, building up and maintaining interest in the law school, particularly on the part of its alumni . . . the Digest is very much worthwhile and congratulate you upon your efforts in connection with it. **LOUIS H. BURKE, Presiding Justice, California District Court of Appeal.**

\* \* \*

I find it exceedingly interesting . . . you and your Loyola Bar Association are to be congratulated. **A. ALLEN KING, Dean, University of Tulsa School of Law.**

\* \* \*

Let me congratulate you on the first issue of the "Loyola Digest". I think it is excellent that the students at Loyola University are interested in preparing a publication for the Law School. **RUSSELL N. SULLIVAN, Dean, University of Illinois College of Law.**

\* \* \*

I have read with interest the **LOYOLA DIGEST** and think it is a fine law school news sheet. **JOHN RITCHIE, Dean, Northwestern University School of Law.**

\* \* \*

I appreciated receiving the copy of your excellently edited "Loyola Digest". I think it is very well done and has a very definite place. **LEON H. WALLACE, Dean, Indiana University School of Law.**

\* \* \*

A cursory study of your newspaper has left us with a very favorable impression. The adept coverage given to the School news is evidence of a fine, perceptive staff. It was gratifying to see a law school newspaper function without advertising; an advantage with which we are not blessed. **JOEL L. DANIELS, Editor OPINION, University of Buffalo Law School.**

\* \* \*

I was very impressed with the Digest . . . I congratulate you on having a fine newspaper. I hope you will continue to publish this paper. **JAMES P. WHITE, Dean, University of North Dakota School of Law.**

\* \* \*

I have examined it with a great deal of interest and consider it to be an outstanding vehicle for conveying to students, alumni and others the story of Loyola of Los Angeles. **WM. F. ZACHARIAS, Dean, Chicago-Kent College of Law.**

\* \* \*

I have no suggestions, except to extend my cordial congratulations and Godspeed. **MARTIN TOLLEFSON, Dean, Drake University School of Law.**

\* \* \*

. . . we agree that this publication would be a valuable addition to the permanent collection in our Law Library. We should like to have you place us on your mailing list, and bill us in duplicate for whatever charge is necessary. If back issues are available, please send us those also and add the charge to the billing. We should like to have as complete a file as possible. **MRS. MARIAN G. GALLAGHER, Librarian, University of Washington Law Library.**

\* \* \*

. . . I commend you on your coverage of current topics. . . **GEORGE H. YOUNG, Dean, University of Wisconsin Law School.**

\* \* \*

I regard the **Loyola Digest** as one of the most readable law school publications in the United States. How (or whether) the Editors can find time in which to prepare for their examinations, is a matter for speculation. But the **Digest** is first rate. **D. E. SNODGRASS, Dean, Hastings Law School.**

ED. . . What examinations?



## Crime Conference . . .

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drains off millions of dollars of our national wealth, infects legitimate businessmen, labor unions, sports, and most importantly, corrupts public officials." And by no means of least importance among the observations of the Attorney General was the fact that the ruinous effect of crime is not confined to physical harm and financial loss, but operates to weaken the moral fiber of Americans. This is readily evidenced in that, "disregard for the law is tolerated too much at every level of our society . . . giving rise to cynicism and the cheap, false philosophy that everything is a racket."

Even the most cursory examination of the problems with which leaders in the war against crime are confronted, cannot fail to reveal the urgency of interaction and cooperation between the federal government and state and local agencies. The President, Attorney General, Governor Brown, and members of the legal profession everywhere are in agreement here. Crime is boundless. It thrives on moral decay and is nurtured by public cynicism. If it is to be crushed it must be done by moral vitality and public cohesion. This is a task requiring co-operation and unity of purpose — participated in by everyone, on all levels — and prosecuted by faith and courage.

Mr. Kennedy pointed with pride to the commendable record of national criminal legislation that has been passed this year. Five of eight bills submitted to Congress were enacted, marking a record for anti-crime legislation, unparalleled since 1934. These new laws are some of the much-needed weapons, and in the hands of an aware, united citizenry will prove fatal to crime in America. Specifically the new bills prohibit: "interstate transmission of bets or

wagers by wire or telephone; interstate transportation of gambling equipment, broadly defined by Congress to include numbers racket tickets and sports betting slips; and interstate travel to promote or engage in illegal business enterprise." The federal government was desperately needed in these areas, and it rose to the need with efficiency and dispatch.

Attorney General, Stanley Mosk, announced the initiation of a monumental new state-wide crime prevention agency, and declared that the unusual interest and enthusiasm shown by delegates to the conference afforded ample evidence that such a venture would meet with success. The idea will be presented at the next session of the Legislature, and the Attorney General has high hopes that it will be actuated. The new bureau would serve to provide information and educational materials on crime prevention; local crime prevention councils would be established; and, there would be a "central depository and clearing house of such information." The key to the solution here is education. An informed populace is not an easy prey for the furtive infiltration of criminal activity.

**The menace of crime is a menace to the American public. Small wonder then that the proposal is advanced that it should be dealt with by the public, and that its remedies lie within the province of the public domain. Crime, like pestilence and disease, is of concern to us all, and the problem of its extermination is one that is peculiarly assignable to central control. This, with the help of state and local cooperation is the course of action best suited to the task. With the tools provided them by Congress, the F.B.I., according to Attorney General Kennedy, "has been enabled to meet the problem**

## 'Good Stuff' In The Library

By Myron Fink

"Write about the 'good stuff'" your ebullient Editor said to me one day. He pointed to the library's collection of miscellany shelved behind the Loan Desk. I promised him I would and here it is.

The "good stuff" is a group of books, current, choice or popular, which does not have a ready place in the established law school

**headon, and, the underworld is well aware of what is happening. Reports indicate that the major racketeers and hoodlums are uneasy. They are worried and several months ago the head of the Royal Canadian Mounted Police said that Canada must cope with an influx of American racketeers shifting their operations to Canada because of our efforts."**

Mr. Kennedy alluded with great satisfaction to the record of California, in cooperating with the Justice Department, and in taking remarkable steps of its own. In particular he referred to the passage of new narcotics laws that are designed to curb the present deluge of narcotics traffic by the combined efforts of federal, state, and Mexican authorities. California's enviable record in the drive to cure the juvenile problem is a further accomplishment of a Governor and Attorney General that are aware of the situation and sensitive to its eradication. So-called "halfway houses" were established last fall for youths who go there prior to their release and receive special counseling and aid in obtaining jobs. Probation officers report that the "graduates" return to society with a much more positive and realistic attitude than do youths released directly from an institution.

Some of the notables in attendance at the Conference were: Los Angeles Chief of Police William H. Parker; Chief Deputy Attorney General for California, Richard Rogan; United States Attorneys Francis C. Whelan and Cecil Pool; Mayor Samuel Yorty; District Attorney William B. McKesson; Senator Richard Richards; and, Eugene Rostow, Dean of Yale Law School.

Under the able leadership of these men and others of their caliber, great forward advances have been made. But, as Mr. Kennedy admonished the delegates, "I have no illusions that the battle is won." Indeed, the inroads that have been made against crime are encouraging, but they are slight when compared with the work yet to be done. Mr. Kennedy, emphasizing the need for "tough and purposeful" preservation of the rule of law quoted Somerset Maugham, who once said:

**"If a nation values anything more than freedom, it will lose its freedom; and the irony of it is that if it is comfort or money that it values more, it will lose that too."**

The stage is set. The ammunition is being provided in the form of "tougher" and more far-

reaching laws. The matériel for the battle is available and need only be brought forth and applied. This is the task, first and foremost of all, of America's lawyers. The "living stuff" of which a constitutional republic is made is law, and it is the lawyer who breathes life into that law. We students of Loyola Law School, and thousands like us, will soon accede to this tremendous responsibility, and the success, or failure, of this republic will depend on us. It is to this end that these men attending the California Crime conference are dedicated, and to which we must assign ourselves.

**The diversity of the collection, while surely one of its attractive features, only begins to suggest its significance in the law school program. Excellence, as well as interest and relevance to law, are the main standards of the collection. We seek to include the best that has been written on all matters related to the study of law. When "Felix Frankfurter Reminisces" or Louis Nizer recounts his "Life in Court," we are interested. We are interested because we know very well that course offerings and technical "know how" are not the whole story.**

We know that law has a growing edge. We know that law is concerned with justice as much as sociology, with language as much as with science. We are aware that law regulates power in our society, which means that it has the task of choosing, whether it admits it or not, between warring interests and competing policies. Why? How? To what end? The questions are difficult, endless, fascinating, essential. How can one begin to deal with them in a law school?

**There is no one answer or easy answer. Questions like**  
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Governor Brown, Mike Wallen of the Examiner, and Tony Murray of the DIGEST discuss the proceedings at the Crime Conference.



# WHAT YOU DO NOT LEARN IN LAW SCHOOL

By McIntyre Faries

Presiding Judge of the Superior Court of Los Angeles County

May I start with the following beliefs:

1. Every one of us wants to do some good in this world;
2. Every one attending Law School hopes to achieve a measure of prestige; and
3. All hope to live better than the average and accumulate more of this world's goods than the average.

These thoughts may not be expressed in the proper order and all will not agree as to their relative importance, but I venture that all of you are thinking about these things daily. Probably there are many persons who can talk on such subjects with more authority than I, but I do have some thoughts which may help.

**From the standpoint of financial success, education is capital; personality is capital; social graces are capital; connections are capital.**

The school athlete who marries the banker's daughter, whether he realizes it or not has used his athletic ability and standing with his fellow students (and perhaps the newspaper reporters) as capital. Just what value you should put on the various attributes that you have as capital, I do not know, but each of you has capital to invest. If you haven't any of the items of capital I mentioned above, you may have some other items, such as knowledge of human nature, ability to read character at sight, affability, willingness to work, etc.

The fellow, who needs help from all of us is the average fellow who has to start out the hard way for himself, or has to make connections with someone who can hire the average fellow in or just out of Law School. It usually is a little late after you have taken and know that you have passed the Bar Exam to go to the District Attorney's Office, Public Defender's Office, the County Counsel's Office, the Los Angeles City Attorney's Office, the Attorney General's Office, etc. There often are openings in these larger municipal and state offices that expand with the increase of population. There certainly is no harm in finding out the situation, i.e., accumulate this knowledge, which is what I call capital, before you make a decision.

**Don't forget that the greatest capital in the law business is the possession of friendships.**

I hope I don't irritate the personnel managers of these various offices by making this suggestion, but you should find out about how people get on their lists, etc. Some even have clerical jobs, which are valuable not only because they bring in some money, but because they are stepping stones to better jobs after one is admitted.

**Bear in mind that the Good Lord did not put a tongue in your head to waggle, but to assist you in the process of receiving food and expressing thoughts from your mind.**

There are also jobs to be had as investigators, adjusters, etc., for insurance carriers. There is little likelihood of your being of real value to companies specialized in the defense of insurance cases until and unless you are admitted and able to indicate some aptitude for such matters. Experience with an insurance carrier or a good claim adjustment service might have a value in this.

Do you read the daily legal papers? On my desk at the moment are copies of the Los Angeles Daily Journal and the Metropolitan News. My observation is that most lawyers and some law office clerks glance at the front page of the first section and perhaps that of the second section and think they have read the legal paper. Perhaps this is sufficient for them, but it is not sufficient for you if you are interested in the problem of obtaining a start in the law business.

The CALENDARS of the various courts should be read, not only to see who is doing business, but for a much more important reason. If you are going to have any value to the average law firm, you must have a real understanding of what goes on in the Courthouse and how things are handled. The average young man, who gets out of Law School, knows very little about how business is really done at the Courthouse.

**Not only should you study law, but study the law business.**

Have you ever been to Department 1, the Master Calendar of the Civil Departments at Los Angeles and watched the procedure there in the morning? Have you ever been to Department 2 (Pre-trial), Department 100 (Criminal Master Calendar in Los Angeles), or Departments 4 and 9 (Probate Master Calendars), or a number of other departments? Suppose you walked into a law office and said you wanted to get a job as a law student in the afternoons, etc., and the lawyer said, "Alright, you are hired. Take these papers, serve opposing counsel, file the papers," etc. Would you know where to go to file a civil suit? Would you know where to go to get a writ

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## Pros

(Continued from Page 2)

other countries, that their language shall be received as legal tender along with the speech of the great masses who trade ideas and information in the monest money of decency."

The Besig case concerned the prohibition of the Henry Miller works the "Tropic of Cancer" and the "Tropic of Capricorn" from being distributed in this country from foreign sources. The court held that the only competent evidence and all the evidence to be viewed in such a case is the written matter itself, taken as a whole. Webster's International Dictionary was used as an aid to determine that obscenity is, in both England and America, something indecent, smutty, lewd, or salacious. These adjectives were all applied to these books, which were written in the composite style of a novel autobiography, and the author is a character in them, living in degradation. Practically all that the world regards as sinful the court observed, is detailed in the vivid, lurid language of smut. And throughout these two books Mr. Miller does not relate the slightest expression that such an atmosphere should be abandoned. The Court said that, "... the disgraceful scenes conducting the reader through sex orgies ... are so heavily larded throughout the books that those portions which are deemed to be of literary merit do not lift the reader's mind out of their sticky slime." It was claimed that the book truthfully describes a base status of society in the language of its own inequities. And that, since we live in an age of realism, obscene language depicting obscenity in action ceases to be obscenity. Obscenity through the style of realists, surrealists, or plain shock writers makes no difference in the court's approach. "... The law is not tempered to the hardened minority of society."

One of the principal arguments expounded by the defense in the obscenity cases is that it is the exclusive responsibility of the parent to regulate the minor's reading material. But, how can the parent effectively discharge this responsibility when the impressionable youngster can obtain erotic books at the same stand where he buys a Coke and comic book? Parents do have the duty to insulate their children from the dangers of obscenity; but, in our modern society, "chock full of art sellers", that duty is not exclusive to the parent. The responsibility is a shared one. The state not only has a right but a compelling duty to challenge the dissemination of obscene literature.

## In The Library . . .

(Continued from Page 4)

these are not on bar or law school examinations. Concern with them does not pay off in grades and credentials. I can hear you mutter: "Yes, I can well afford to do without Brandeis, but can I afford not to read my quota of assigned cases?" Studies come first, of course. If you are on the ropes, Hohfeld's "Fundamental Legal

Conceptions" is not for you. But what excuse can there be for the others who ignore this vital part of legal education?

Let me close in a less serious vein by reminding everyone that our collection offers many pleasant hours of good reading. We promise to waive all questions relating to significance, motive or interest. Our theory is that good writing is contagious and creates its own demands. Pay us a visit soon.



Ford Chapter, Phi Alpha Delta, is currently sponsoring tours through the County Courthouse. Brother Bob Ridley (center) demonstrates the function of the Index books to Loren Miller (left), Morgan Wright and Carolyn Frian.



# From The Editor's Desk

(Continued from Page 1)

"... it is my responsibility." It is hoped that presentation of both sides of this current controversy will afford the reader sufficient criteria to make his own evaluation.

On Feb. 21, 1962, a Superior Court in Chicago permitted the sale of the controversial novel, "The Tropic of Cancer." The court found that the novel is not obscene. In an 18-page opinion Judge Samuel Epstein said, "Literature which has some social merit, even if controversial, should be left to individual tastes rather than governmental edict." Two days later, Feb. 23, a Los Angeles tribunal held that the novel was obscene under California law and sentenced a Hollywood bookdealer to a 30-day jail term. About 70 other cases involving the novel are in process of litigation throughout the country. Responding to the urgency of this problem, students Frank King and Warren Wolfe have addressed themselves to respective sides of the controversy. Whatever side of the argument the reader subscribes to, he will find that both writers wield a "powerful little finger."

The President of the United States has proclaimed May 1 as Law Day. It is a day to emphasize an ideal. Thurman Arnold, a central figure in the legal realist movement, has pointed out that this ideal "... is of tremendous importance. For without a continuing pursuit of the shining but never completely attainable ideal of the RULE OF LAW above men we would not have a civilized government. If that ideal be an illusion, to dispel it would cause men to lose themselves in an even greater illusion, the illusion that personal power can be benevolently exercised."

The next issue of the Digest will feature Attorney Melvin M. Belli as guest writer. The London Evening News has predicted that "... the mantle of Giesler will fall on the silver-haired dandy with a skeleton in the cupboard." The Evening News further observes that "... out of court he is merely unconventional; in court he is outrageous. Whenever he appears in court he comes equipped with graphs, photographs, a skeleton named Elmer and charts on which he sets out to calculate the money his client should receive per hour for pain, medical expenses and lost wages. He has averaged a million dollars a year in settlements for his clients over the past quarter of a century. His theatrical tactics have made it an open question whether Melvin Belli is a melodramatic demagogue or a friend of the oppressed." Much has been said and written about this gentleman. It will be interesting to hear from him personally. His article will survey the trend of the law in that amorphous area called Warranty and Products Liability. Mr. Belli warns, **CAVEAT VENDOR!**

Recently a Federal Court fined and imprisoned high officials in the electronic industry for their participation in a price-fixing scheme. Presently a Senate subcommittee is investigating the excessive profits of certain missile companies. The next student Pro and Con column will undertake the proposition that there should be **A DIFFERENT STANDARD OF MORALITY IN THE MARKET PLACE.**

Students from sister law schools have contacted the Digest; some of the works submitted warrant serious consideration. A selection will be forthcoming.

The Miami Refugee Center is receiving over 2000 self-exiled Cubans per week. The Judiciary in that country has been replaced by military terrorists. Student Ernest A. Vargas will show the casual relation between both occurrences in his article, **THE CUBAN EXODUS—A BREAKDOWN IN THE LAW.** Ernie is well qualified to handle this assignment. He is a native of Lima, Peru. He personally interviewed students involved in the 1958 San Marcos University riots against Vice President Nixon. His report was featured in the UCLA Bruin and carried in several newspapers. Communications with Miami officials and naval officers in Key West will be the basis of his report for the Digest.

An eminent jurist has written, "If a man has the soul of a Sancho Panza, the world will be Sancho Panza's world; but if he has the soul of an idealist he will make—I don't say find—his world ideal."

This issue of the Digest is dedicated to the third-year day-class of the law school. Their self-imposed assessments have enabled this issue to go to press uncontaminated by space-consuming advertisements. There are no Sancho Panzas in this graduating class. Classmates, we are proud to be amongst you!

—H. G.

# Cons

(Continued from Page 2)

the emotional response. Hence, no image is inherently obscene—can there then be a truly objective test for obscenity?

Now this is MY POINT: That literature, as to its contents, should be absolutely protected by the Federal Constitution.

## The Trial

When may a state in the exercise of its police power encroach on a natural freedom? Justice Black, speaking for the court in **Bridges v. California, 1941**, (314 U. S. at 263), stated: "What finally emerges from the clear and present danger cases is a working principle that the substantive evil must be extremely serious . . . before utterances can be punished." The alleged evils: Immoral thoughts and conduct:

If we can establish a causal relationship between literature and immoral thoughts, how do we define such thoughts? Are thoughts of sexual intercourse immoral? Not in wedlock. Out of wedlock?

In 1928 inquiry was made to female college graduates as to the stimuli which aroused their sexual thoughts. Drama, dancing, books, and men were the "evils." (1938, 52 Harvard L. R. at 73). If one picture is worth a thousand words, then what fantasm is provoked by a bikini clad woman? I submit if "obscene" literature is taboo, so also is man!

Were the female college graduates all depraved because they admitted to these "immoral thoughts"? Do most persons have such thoughts? If so, either the thoughts are normal or most of the population is depraved. In the latter case perhaps society is better off allowing these thoughts to be drained off by books, rather than taking the chance of people expending them on people.

The censors are quick to link lewd thoughts with anti-social conduct; i.e., any demeanor which is illegal or contrary with prevailing moral standards—whatever that is? Now each of us at one time has experienced emotional desires to injure another, frequently one we love — but how many succumb? The truth of the matter is that relatively little information exists as to the effect of literature on human behavior. Logically those so mentally unbalanced as to practice perversion, are impelled to do so not by the books they read, but by their sickness. Even if they can be stimulated to act where otherwise they would not, literary contributions are *de minimis* amidst the welter of other stimuli that society provides. Cure the sickness and the market for "obscenity" is non-existent.

The sickness of a few cannot be cured by a carte-blanche censorship that bridges the freedom of speech for the many.

## The Verdict

Having stripped the bird, it becomes evident that if moral decadence exists in our society, it's not because of any literature. The law of obscenity has thus become a restraint upon ideas. To say that "obscene" words are unnecessary to express ideas only begs the question. For inherent in free expression is the selection of vocabulary; deprived of such right the freedom may produce only a McGuffey's Reader.

In the words of Justice Jackson (**Board v. Barnehe, 1943**, 319 U.S. at 642): "... freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order."

# LOYOLA DIGEST

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Opinions expressed in the Loyola Digest are those of the writers and do not necessarily reflect the views of the Loyola Digest, the University, the Law School or the Student Bar Association.



# Civil Liberties

## IN CLEAR AND PRESENT DANGER

By A. L. Wirin

Many Americans are of the view, and I am among them, that one of the major casualties of the cold war suffered by our nation, is the loss of our rights. To me, our civil liberties appear to be "in clear and present danger"—and this, particularly from the enforced imposition of "loyalty oaths."

I share the opinion of President (then Senator) Kennedy: "An epidemic of loyalty oaths has spread across the nation until no town or village seems secure until its servants have purged themselves of all suspicion of non-conformity by swearing to their political cleanliness."

(Public statement to American Civil Liberties Union, November 1960.)

I agree, too, with Rev. Michael P. Walsh, President of Boston College, who opposed a loyalty oath on students because "the real security of our country lies in the maintenance of freedom in spirit as well as in fact," and that such oaths violated "the presumption of non-guilt."

(Statement before U. S. Subcommittee on Education, U.S. Senate, 86th Congress.)

Of course, every government official and employee owes loyalty to the United States; so does every citizen. **But only voluntary loyalty is true loyalty; genuine loyalty cannot be coerced.**

But then if such loyalty can be secured through compulsion by law, it cannot be achieved through enforced "loyalty oaths", because they are not true loyalty oaths at all: they are test oaths traditionally rejected by men who love freedom, because they undertake to make compulsory inquiry into political opinion and association.

Accordingly, the evil which they reap is **enforced orthodoxy and conformity — the hallmarks of a totalitarian state** — alien to a free society.

This position is best and most eloquently stated by Justice Hugo L. Black, concurring, in *Speiser vs. Randall*, 357 U. S. 513, 532 (which held unconstitutional California's requirement of a "loyalty oath" as a condition of securing tax-exemption):

"Loyalty oaths as well as

other contemporary 'security measures', tend to stifle all forms of unorthodox or unpopular thinking or expression—the kind of thought and expression which has played so vital and beneficial a role in the history of the nation. The result is a stultifying conformity which in the end may well turn out to be more destruction to our free society than foreign agents could ever hope to be... I am certain that loyalty to the United States can never be secured by the endless proliferation of 'loyalty oaths'; loyalty must arise spontaneously from the hearts of people who love their country and respect their government."

Moreover, as suggested by Father Walsh, "loyalty oaths" subvert the presumption of innocence. They assume that the parties are guilty, they call upon the parties to establish their innocence, and they declare that such innocence can be shown only in one way: by an inquisition, in the form of an expurgatory oath, into the consciences of the party." So said the United States in 1866, in *Cummings vs. Missouri*, 4 Wall 277, 238, and in *Ex Parte Garland*, 4 Wall 333, holding that a Catholic priest and a lawyer, respectively, were protected by the Constitution of the United States from being required to submit to the then imposed "loyalty oaths."

As a matter of personal conscience, I have refused to submit to a "loyalty oath" as a condition of becoming a Notary Public (see *Wirin vs. Osly*, 191 Cal. App. 2d 710 certiorari denied, 368 U. S. 952), and I have thus forfeited the post of Notary Public, but it is a small price to pay for freedom.

"It is a misdemeanor to shoot at any kind of game bird or mammal—except a whale, from an automobile or airplane." Penal Code 6260, California State Vehicle Act, Chapter XVIII, Paragraph 187.

## Justice McComb Highlights Breakfast



Justice McComb is congratulated after the St. Thomas More breakfast. At the head table are (left to right) Doug Martin, Father Donovan, Justice White, Justice McComb and Father Casassa.

On March 18, 1962, the St. Thomas More Law Society of Loyola Law School had the privilege of bestowing its annual award on the Honorable Marshall F. McComb, associate justice of the California Supreme Court. This award was given to Justice McComb for his exemplifying both in his private and public life the ideals of St. Thomas More.

In accepting the award, Justice McComb not only reminded those

in attendance of the special responsibilities which the lawyer has in the business world, but he also illustrated what an excellent model lawyers have in St. Thomas More. As a result of his inspirational talk, the society is placing in the law school a prayer to St. Thomas More, patron of lawyers. This prayer will act as a reminder of the obligations which the legal profession has to themselves, their families and society.

## WHAT NOW, GRADUATE?

By Arthur Armstrong

(Editor's Note: Mr. Armstrong is currently teaching the course in Federal Estate and Gift Taxation. He is a graduate of Boalt Hall and is an Associate in a leading Los Angeles law firm.)

I've been asked to give some valuable inside information on job hunting—something for the Third Year Class which will be an "Open Sesame" to an unlimited future with high pay, short hours and interesting problems. This I can't do but I have some ideas on the subject of jobs.

**I can't sympathize (although, I hasten to add, I do empathize) with the luckless job hunter. He has had seven years of undergraduate school and law school, plus some outside experience in many cases, in which to create a picture of ability. His academic record, extracurricular activities, and work experience are all his, and his alone. If he has created something that can't be sold, no one else is at fault. All that can be done is to fall back and add some more facets to the product, by getting a little more experience, for instance.**

For the student who protests that he has the ability, all I can suggest is that one aspect of legal ability is that of persuasion. **There is no such thing as a capable lawyer who can't persuade.** If you're that good, and can't convince other people of it—maybe you're not so good at one of the basic skills of the attorney.

Just to avoid sounding completely negative, let me give one helpful hint on the selling—interviewing—process.

**The one area which is liable to prove the biggest pitfall in interviewing is that of keep-**

**ing the conversation going after the initial banalities have been exchanged. Obviously this will vary depending upon the person to whom you are talking, and his own predilections.**

Remember that the interviewer is trying to estimate your potential as a lawyer within his organization. Most lawyers would very much like to hire everyone who applies for a job, but they have to be convinced that they can afford the luxury of a new item of overhead. Usually, you will be most successful if you can help him guide the conversation into channels in which he can display his superior skill, while getting a good impression of you.

**One of the best ways to do this is to become relatively knowledgeable in a matter of current interest within the field of the person to whom you will be talking.**

A recent decision, statute or regulatory pronouncement is ideal. Try to know something about it, and let your interviewer exchange his ideas on the subject with you as an equal. He may pre-empt the conversation, but a "good listener" is usually best remembered as a very intelligent young man.

The best thing to remember is that there is a tremendous demand in Los Angeles for good lawyers. If you can persuade someone you fit into that category, you will, given enough knocking on doors, find a good position.

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# Blackstone's Commentaries

Tapping the usually reliable sources to discover just where we are in the March of Time, the pageant of youth or even in the "Dance of the Hours," we can say with a high degree of probability that spring is present and accounted for . . . To the wonted melody of burgeoning blossoms and ribbon-snipping ceremonies opening new stretches of freeway to freedom fighters, cads, and compacts, there is unmistakable evidence of the suppressed yawn that indicates a determined resolve not to yield to the mañana spirit of the old pueblo that currently is the third largest city in the nation . . . Down in the neighborhood of "The Plaza" recently was **GENE McCLOSKEY**, '51, showing the salutary effects of a weight-reducing diet (299) and apparently busy about many things, not the least of which is the administration of justice . . . Up in the forefront of successful practitioners in the area, he enjoys carte blanche to the better hardware shops along the street . . . **JUDGE MAHEDY**, '30, always domiciled a stone's throw from the Courthouse since he tossed his professional bonnet into the arena of public service in San Diego a generation ago, followed the trend into 'suburbia' recently and started to settle down to a life of study and contemplation befitting one whose judicial career recalls not a few of the distinguished names in the history of California jurisprudence . . . Recent reports, however, disclose his return to the hub of metropolitan life and his judicial record still glowing with superior achievement . . . In from the desert (Palm Springs) for a look-see, **WARREN SLAUGHTER**, '42, has so much business that he's in the market for qualified help . . . **JOHN CARROLL**, '51, is another voice in the wilderness (Indio) that resounded less than a few weeks ago within Loyola's precincts . . . He's searching about for someone who can do him some good and improve his own position . . . **MIKE FREIS**, '49, Banker deluxe and Trust Officer par excellence, after over forty years, on and off Spring Street, has retired from the Security Bank to become a member of the law firm of Pacht, Ross, Warne and Bernhard . . . Away from the chaos and confusion of 6th & Spring, he will specialize in trusts, estate planning and probate law, in the upper reaches of Wilshire . . . Another communiqué announcing the acquisition of new members in the firm is from O'Melveny and Myers . . . As of January 1, three got the word to move up to the first team . . . two-thirds of the trio have the hallmark of Loyola for their identification, **HUGH L. MACNEIL**, '48, and **BARTON BEEK**, '55 . . . **JOHN GALLAGHER**, '61, drops around occasionally to look over the material in Moot Court work . . . You recall he parlayed his investment in legal training into active competition, locally and nationally, and landed in the office of Thompson, Waters and Moss . . . **GARY COOPER**, '61, after performing valiantly as law-clerk for Judge Peirson Hall, got the call to move over to the U.S. Attorney's Office . . . **JO ANN MARES DUNNE**, '60, a star in her own right, —a baby star, that is, —pirouetted from the Moot Court Team, into the office of the Chief Enforcement Officer in the Southern District of California . . . It was a novel approach, delighted everyone and she's there to stay, —and loves it . . . Recently in line of duty she was representing the Government in a matter having to do with the theft of a valuable ring belonging to Mary Pickford . . . It was a natural that the photograph of this pair of stars, —separated by a half century, more or less, —should push top local talent back with the bargain basement ads . . . **JOE BUSCH**, '51, is not losing any time in prosecuting the thing that doesn't pay off, — crime, — right now he's winding up an excellent performance for the People of California . . . His work today is of the same high quality and dependable as when he pursued the case-method in his quest for learning in the law.

## LOYOLA DIGEST

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# MORITURI SALUTAMUS

By Barry H. Kenealy

"Hail O Caesar, We who are about to die salute you!"

The death of Benny Paret on April 3 has given impetus to a sweeping wave of indignation across the land. Sadly, like all waves, this too will probably be muted, rejoin a sea of indifference and evaporate into a blessed sky of forgetfulness.

**A very brave young Cuban fighter was beaten to death in the living rooms of millions of American homes—and thousands cheered while the act was being done.**

A man, trained and conditioned to beat other men into oblivion with his fists, had done his work well. Those present at Madison Square Garden applauded his performance and Benny Paret was carried out on a stretcher, taken to a hospital where he would die without regaining consciousness.

To discuss the sanctity of human life, or our belief in it, at this point would be brazen hypocrisy. The simple fact that the foregoing occurred in our nation belies our belief in its existence. We, as a people, have been indicted, but it is as individuals that we must feel the shame of the charge against us.

As individuals, we must examine that which precipitated our placing a national stamp of approval on that which, at worst, is wanton bloodlust and, at best, criminal. Professional prizefighting, when stripped of its pretenses, is nothing more than the sacrifice of human beings for the purpose of public amusement. A criminal activity on a national scale carried on under the guise of "sportsmanship."

**If the people of California would present a petition signed by 2% of the number of persons who voted in the last governor's election then the question of abolishing prizefighting in California could be placed on the ballot for the voters to decide. Or if a constitutional amendment could be passed by the California Legislature by a two-thirds vote, it could then be submitted to the voters for approval.**

The late Ernest Hemingway once wrote, "So far, about mor-

als, I know only that what is moral is what you feel good after and what is immoral is what you feel bad after."

**If, by applying this rule of thumb, the people of California can say that prizefighting is a moral "sport," then I suppose it is only a question of time until we join the aficionados of the bull ring in awarding the victor the ears of the vanquished.**

Perhaps the death of Benny Paret will be accepted with a slight shrug of calloused indifference—only time will tell. If so, how little man changes. In 404 A. D. an Asiatic monk named Telemachus leaped into the arena at Rome and strove to part two gladiators. The spectators showed their high regard for his efforts by promptly stoning him to death.

So to those who accept Benny's death with indifference let me say, "Your conscience will be no burden, but you might be awfully uncomfortable walking about with all those stones in your pocket."

In Omaha, Neb., the city clerk must be notified five days before the occurrence of an injury caused by defective public ways or sidewalks or the claimant cannot recover damages from the city. Sections 14-802.

## What You Do Not Learn . . .

(Continued from Page 5)

of attachment issued? Why not get a map of the first floor and of the second floor of the Los Angeles Courthouse, or better yet, go up there and put a map in your head. What do you know about branch courts and their districts? What do you know about the rules of the court? Need I go on?

**If you learn these things, you have capital that many, many young lawyers do not have. The start on these is the newspaper. The next step is to go and see for yourself locations and procedure. The third step is to make friends with clerks, bailiffs, commissioners and judges. Such persons are not ogres; they are very human and if you do not approach them at the wrong time (and it is part of your capital to know what is the right time), they can be most helpful and will be helpful to you. After all, it is always flattering to be asked a question by someone who is desirous of learning.**

So, I could go on at great length, but what I am trying to tell you is that you have capital now and that you can increase this capital and realize thereon without much financial outlay. You need such capital and when you attain it, the three normal goals indicated in my first paragraph are just around the corner.

I hope what I have said is helpful and not too "preachy". Best wishes.